



INDIANA DEPARTMENT OF TRANSPORTATION

Driving Indiana's Economic Growth

Economic Opportunity Division

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MITCHELL E. DANIELS, JR., Governor

KARL B. BROWNING, Commissioner

On The Job Training Program and Partnership Agreement

I. Program Description

A. Purpose

The On the Job Training (OJT) Program was created by the Federal Highway Administration (FHWA) and the Indiana Department of Transportation (INDOT) to fulfill the Training Special Provisions requirements of Federal aid construction contracts (23 CFR 230, Appendix B to Subpart A). The purpose of the provisions is to address the under-representation of minority and female workers in the construction trades through the assignment of OJT training goals; therefore, the training and upgrading of minorities and females toward journey level status on INDOT Federal aid contracts is the primary objective of INDOT's Training Special Provisions.

B. Program Summary

The 2008 INDOT OJT Program fulfills these objectives by: (1) fostering long-term relationships between contractors and trainees, (2) encouraging contractors to assist trainees in fully attaining journey level status, and (3) offering contractors abundant flexibility in fulfilling their training obligations. INDOT's Program assigns Federal aid prime contractors an *annual training goal* as a set number of hours, which represents a percentage of the contractor's past performance as an INDOT prime.

Contractors may assign approved trainees to any project on which the contractor is a prime, including non-INDOT projects, as long as the majority of training hours are assigned on INDOT projects. Contractors may also assign trainees to be trained by subcontractors on INDOT projects, so long as the prime contractor retains the primary responsibility for fulfilling their Federal aid training requirements.

Contractors shall also make every effort to meet their OJT Program goals by enrolling minority and female trainees (i.e. by conducting systematic and direct recruitment through public and private sources likely to yield minority and female trainees) to the extent that such persons are available within a reasonable area of recruitment. Where a contractor can not meet their annual training hour goal with females and minorities, they are responsible for demonstrating the Good Faith Efforts taken in pursuance of the goal. Examples of what actions constitute Good Faith Efforts are set forth in Section II (C) below. INDOT will make compliance determinations regarding the Training Special Provisions based upon either attainment of the goal or Good Faith Efforts to meet it.

Taken together, the OJT Program represents an understanding between Contractors and INDOT to select projects and assign training that fulfills both the letter and the spirit of the Federal Training Special Provisions.

C. OJT Transition Issues

Prior to March, 2008, contractors were offered the choice to participate in one of two INDOT OJT Programs: (1) the “Original” Program or (2) the “Pilot” Program. Beginning with the March, 2008 letting however, contractors can fulfill their training obligations only with the 2008 Training Program, which closely resembles the former Pilot Program. Therefore, in order to transition smoothly into the new Program:

- ❖ Contractors with active contracts that contain the older provision and have elected to participate in the Original Program must satisfy the training requirements specific to that Program.
- ❖ Contractors with active contracts that contain the older provision and elected to participate in the Pilot Program are subject to the following provisions:
 1. Those trainees already accepted into the Pilot Program will be automatically approved for the upcoming construction season so long as they have not yet reached journey level status, and
 2. Any hours accumulated in 2008 toward the contractor’s annual Pilot goal shall count toward the contractor’s training goal for the current year that they are awarded an INDOT contract with the

new provision (e.g. a contractor in the Pilot Program has a trainee with hours both in 2007 and 2008 and is awarded a contract in May, 2008. Those hours prior to May, 2008 would count toward fulfilling the contractor's 2008 annual goal, but those from 2007 would not.)

D. Annual Training Goal

Each year that the Contractor has a Federal aid INDOT contract (or within thirty (30) days following receipt of a Notice to Proceed for an INDOT Federal Aid contract on which the Contractor is a prime contractor), the Contractor shall commit to an annual training hour goal. INDOT will calculate that goal as follows (see Section IV below for more details):

1. INDOT shall average the Contractor's blue collar work hours while performing as a prime on INDOT state and federal projects for the past three (3) years;
2. The Contractor's annual training goal shall total five percent (5%) of that three year average.

Contractors subject to the new 2008 OJT Recurring Special Provision must immediately contact the Economic Opportunity Division to schedule an OJT Conference if:

- ❖ The Contractor does not have three (3) years of INDOT prime contracting work;
- ❖ The Contractor has committed to training hours based on the "Original" OJT program, and has not yet performed significant work on the contract in 2007 or 2008.

II. Program Requirements

A. Training and Wage Requirements

The Contractor must use OJT trainees as part of an INDOT approved training program, which shall be registered with the U.S. Department of Labor, Bureau of Apprenticeship and Training or with a State apprenticeship agency recognized by the Bureau and training programs approved but not necessarily sponsored by the

U.S. Department of Labor, Bureau of Apprenticeship and Training. All training programs must be administered in a manner consistent with the equal employment obligations of Federal-aid highway construction contracts. INDOT reserves the right to request documentation that a program fulfills these obligations.

Contractors must ensure that each trainee does not exceed the maximum number of training hours required for the completion of the selected training program, as approved by the Bureau of Apprenticeship and Training (BAT) or by INDOT and FHWA. In addition, contractors must pay each approved trainee at the appropriate percentage of journeyman's wage rate based on the training program selected and consistent with the applicable Federal regulations and guidance.

B. Trainee Requirements

Contractors shall commit to providing as many training hours as feasible for each trainee accepted into the Program. Further, the Contractor shall ensure that each trainee does not exceed the maximum number of training hours required for the completion of the selected training program, as approved by INDOT. As a Good Faith Effort toward increasing the number of females and minorities in the highway construction industry, every effort shall be made to hire graduates of the Indiana Major Opportunities pre-employment training program (see <http://www.dosomethingmajor.com/> for more information) and other such INDOT-recommended programs.

Contractors may assign approved trainees to any project on which the contractor is a prime, including non-INDOT projects, as long as the majority of training hours are assigned on INDOT federal projects. Contractors may also assign trainees to be trained by subcontractors on INDOT projects, so long as the prime contractor retains the primary responsibility for fulfilling their Federal aid training requirements.

C. Reporting and Participation Requirements

Reporting

Contractors must submit the following documents (see Appendix for sample documents) to INDOT's Economic Opportunity Division (EOD):

1. **Introduction and Termination/Completion Slips** – INDOT must approve the introduction of all OJT Program trainees and be notified of any terminations or completions. Contractors must

therefore submit introduction and termination/completion slips, with all pertinent information. If a contractor hires a majority male trainee, or cannot replace departing trainees with females and minorities, it must also produce sufficient Good Faith Efforts documentation (See Section II (D) below).

2. **Weekly Training Reports** – Contractors must submit weekly training reports. Contractors may request approval from the EOD to submit training reports monthly, in which case the progress reports are due on the 20th day of the month following the performed work.
3. **Monthly Project Reports** –
 - a. Contractors must submit monthly project CC-257 reports describing their aggregate or total workforce to INDOT's EOD by the 20th day of the following month.
 - b. Contractors must also submit a listing of all INDOT projects (Federal, State) or private work to INDOT's EOD. These listings are due on the 20th of the following month.
4. **Quarterly Training Evaluations** – Contractors must submit signed evaluations for each approved trainee or apprentice on April 20th, July 20th, and October 20th of the current year.
5. **Annual Summary Report** – Contractors submit an Annual Summary Report by January 20th of the following calendar year. The report must give an account of all trainee hours with a breakdown of each project and/or contract. Contractors should also note that:
 - a. Weekly or monthly reports submitted after January 31 of the following year will not be accepted or considered towards goal attainment for the previous calendar year.
 - b. If a contractor did not attain its annual goal, it must submit all Good Faith Efforts made to attain the goal to the EOD with the Annual Summary Report.

Contractors should only submit paperwork for individuals accepted and enrolled in the OJT Program and not for individuals participating in other training and apprenticeship programs.

Participation

The Contractor's Equal Economic Opportunity Officer (the EEO) shall be responsible for monitoring and administering the trainees' progress. The EEO shall serve as the point of contact for INDOT representatives, both for information and documentation as well as conflict resolution. The Contractor's EEO Officer or a knowledgeable substitute shall participate in at least one INDOT OJT Program training/informational session per calendar year. The Contractor shall furnish each trainee a copy of the Training Program. The Contractor shall further make every reasonable effort to provide training that develops skills as required by the Training Program.

D. Good Faith Efforts

Where a contractor does not or can not achieve its annual training goal with female or minority trainees, it must produce adequate Good Faith Efforts documentation. Good Faith Efforts are those designed to achieve equal opportunity through positive, aggressive, and continuous result-oriented measures. Good Faith Efforts should be taken as trainee hiring opportunities arise. Contractors should request minorities and females from unions when minorities and females are under-represented in the contractor's workforce. Whenever a contractor requests INDOT approval of someone other than a minority or female, the contractor must submit documented evidence of its Good Faith Efforts taken to fill that position with a minority or female. When a non-minority male is accepted, however, a contractor must continuously attempt to meet its annual training goal with females and minorities.

INDOT will consider all contractors' documentation of Good Faith Efforts on a case-by-case basis, and, take into account the following:

- ❖ Availability of minorities, females, and disadvantaged persons for training;
- ❖ The potential for effective training;
- ❖ Duration of the contract;
- ❖ Dollar value of the contract;
- ❖ Total normal work force that the average bidder could be

- ❖ expected to use;
- ❖ Geographic location;
- ❖ Type of work;
- ❖ The need for journey level individuals in the area;

Good Faith Efforts may include, but are not limited to, documentation of efforts to:

- ❖ Communicate with unions to increase the number of minority and female trainees and apprentices;
- ❖ Contact minority and female employees to gain referrals on other minority and female applicants;
- ❖ Contact minority and female recruitment sources when hiring opportunities arise or thirty (30) days prior to the start of a union's open enrollment application periods;
- ❖ Refer specific minorities and females to the unions or other applicable outlets for trainee recruits and specifically request these trainees by name in the future;
- ❖ Assist minority and female applicants in joining the union;
- ❖ Upgrade minority and female unskilled workers into the skilled classifications when possible;
- ❖ Accept applications at the project site or at the contractor's home office;
- ❖ Review and follow up on previously received applications from minorities and females when hiring opportunities arise;
- ❖ Maintain monthly evaluations that monitor efforts made to achieve diversity on Federal projects and the contractor's workforce in general (i.e. significant numbers of minorities and females employed on a company wide basis);
- ❖ Report incidents in which unions are providing a barrier to

employment for individuals, especially minorities or females that you have referred to the union and any observed pattern of under-utilization of females and minorities in a particular classification;

- ❖ Provide incentives for project management personnel or superintendents when hiring goals are met on a project (i.e. similar to performance bonuses paid when a job is completed timely and under budget);
- ❖ Assist applicants with initiation fees;
- ❖ Allow applicants to work in the shop or as an OJT trainee for ninety (90) days prior to referring them to a union, and assist them in the enrollment process for skilled trades;
- ❖ Allow a trainee's payroll deduction to be saved to cover the initiation fees prior to referring them to the union;
- ❖ Purchase the journeyman's card for the trainee and allow that worker to prepay with payroll deductions.

INDOT may reject non-minority male trainees for entry into the Program if it determines that a contractor failed to make sufficient Good Faith Efforts to hire minorities or female trainees and/or the contractor failed to document or submit evidence of its Good Faith Efforts to do so. The obligation to submit sufficient Good Faith Efforts can not be excused by the provisions of: any collective bargaining agreement, any agreement the contractor has with a joint apprenticeship and training committee, or failure by the union with whom the contractor has a collective bargaining agreement to send the contractor minorities and female trainees.

E. Trainee Termination and Completion

Contractors must submit a termination/completion slip (see Appendix for sample document) to the EOD after each approved trainee or apprentice has completed training or after the trainee or apprentice has been terminated for just cause. The contractor may terminate a trainee at any time for just cause. Contractors need not submit a termination slip when the trainee is expected to return the following construction season. A trainee may also be laid off due to the lack of work;

however, a termination slip is not necessary in such a case unless the trainee is not expected to return the following construction season. If a trainee or apprentice terminates prior to the end of the construction season, the contractor must make Good Faith Efforts to replace the trainee with another minority or female applicant if needed or available.

III. INDOT Program Monitoring

A. Site Visits

EOD representatives will conduct periodic site visits to a contractor's worksite, in addition to OJT review as part of each routine Onsite Compliance Review (as entailed in 23 CFR § 230 Subpart D). INDOT will make every effort to ensure minimal disruption to a contractor's work.

B. End of Year Audits

INDOT will perform an End of Year Audit for each contractor to verify attainment of the annual OJT goal. INDOT will use review procedures identical to those of a routine compliance review.

If a contractor can demonstrate that it attained its OJT Program goal, then INDOT will determine that the contractor is in compliance with its Training Special Provision requirements.

Where a contractor has neither attained its goal nor submitted adequate Good Faith Efforts documentation, INDOT will issue a Show Cause Notice. Within thirty (30) days of receiving the Show Cause Notice, the contractor must submit a written Corrective Action Plan (CAP) outlining the steps that it will take to remedy the noncompliance. The CAP must be approved by the EOD.

If a contractor fails or refuses to submit a CAP within the specified period or does not exercise the corrective actions outlined in an approved Plan, INDOT will commence enforcement proceedings by conducting a compliance hearing with INDOT, FHWA, and/or OFCCP.

Sanctions for non-compliance may include, but are not limited to: liquidated damages, suspension of any payment in whole or in part, termination or cancellation of contracts in whole or in part, reduction in the contractor's experience rating, suspension, and debarment of the contractor.

IV. Training Program Agreement *(please detach Part IV and return to INDOT c/o Susan Miles)*

_____, as a prime contractor on a Federal Aid contract with the Indiana Department of Transportation (the "Contractor") agrees as part of its Training Special Provisions to fulfill the terms of the On-the-Job Training Program (the "Program") contained herein. The Contractor agrees to work in good faith to achieve the Program's objective of training and upgrading minorities and females toward journey level status in the construction industry.

A. Annual Training Goal Calculation

Step 1: Determine the total number of blue collar work hours as a prime contractor on INDOT state and federal projects for the past three (3) years:

| CLASSIFICATION | 2005 HOURS | 2006 HOURS | 2007 HOURS |
|------------------------|------------|------------|------------|
| Foremen/women | | | |
| Equipment | | | |
| Mechanics | | | |
| Truck Drivers | | | |
| Iron Workers | | | |
| Carpenters | | | |
| Cement Masons | | | |
| Electricians | | | |
| Pipefitters & Plumbers | | | |
| Painters | | | |
| Laborers, Semi-Skilled | | | |
| Laborers, Unskilled | | | |
| TOTAL | | | |

Step 2: Add the total hours from each year and divide by three (3):

$$\frac{\quad}{2005} + \frac{\quad}{2006} + \frac{\quad}{2007} = \frac{\quad}{\text{Total Hours}} \div 3 = \boxed{\quad} \text{ Hours}$$

Step 3: Multiply by 0.05 to determine how many hours constitutes five percent (5%) of the average:

$$\underline{\hspace{2cm}} \times 0.05 = \boxed{\hspace{2cm} \text{Hours}}$$

| |
|---|
| _____'s 2008 OJT Training Hour Goal shall be: _____ hours. <i>Company Name</i> |
|---|

B. This document shall be completed by all INDOT Federal aid contractors by:

1. April 1st, 2008, if the Contractor is a past participant in the "Pilot" OJT program as of January 1st, 2008, or
2. Within thirty (30) days following award for an INDOT Federal aid contract to which the Contractor is a prime contractor. If the Contractor does not have three (3) years of INDOT prime contracting work at the time of award, the Contractor must immediately schedule an OJT Conference with INDOT by contacting the Economic Opportunity Division.

I hereby agree to the terms and conditions established herein; and I affirm under penalty of perjury that the information stated above is true, that I have read and understood the terms of this document, and that the undersigned is duly authorized to execute this Partnership Agreement on behalf of the contractor.

Signature

Date

Print Name

Approved By (INDOT)

FOR MORE INFORMATION CALL, FAX OR WRITE:

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